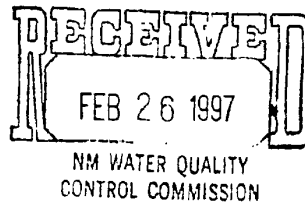


STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

IN THE MATTER OF
DISCHARGE PLAN 933
FOR A TAILINGS DISPOSAL
FACILITY FOR MOLYCORP, INC.



DP-933

FINAL ORDER

This matter having come before the Secretary on the Application of Molycorp, Inc. ("Molycorp") for a discharge plan for its tailing disposal facility near Questa, New Mexico; the Secretary having considered the Hearing Record and the hearing Officers Report, Recommended Findings of Fact and Conclusions of Law, and Recommended Decision; and the Secretary being fully advised;

The Secretary hereby adopts the Hearing Officer's Recommended Findings of Fact.

The Secretary hereby adopts the Hearing Officer's Recommended Conclusions of Law.

IT IS THEREFORE ORDERED that Molycorp's discharge plan, DP-933, be, and it hereby is, approved for a period of five (5) years, subject to the following requirements and conditions:

1. SPECIFIC REQUIREMENTS FOR APPROVAL:

a. Operational Plan:

(1) Molycorp shall discharge no more than 20,000 tons per day (up to a maximum of 82 million tons) of tailings from the mill to the tailings impoundment. Tailings will be transported from the mill to the tailings impoundment in two 44,600 foot long rubber-lined pipelines in a slurry which is 38% by weight solids. Mine water, storm water, and seep water will be discharged to the tailings impoundment when the mill is inactive.

(2) Molycorp will manage all discharges to the tailings impoundment to minimize dust, by discharging to a small area until that area has reached the maximum design height, then moving to a new area and closing and covering the previous discharge area in accordance with the approved closure plan.

(3) Molycorp will implement a spill prevention plan which consists of the following elements:

(a) The pipeline will be patrolled 24 hours per day when the mill is in operation.

(b) Three (3) flow and pressure measurement systems designed to detect pipeline failures will be maintained and will be monitored continuously in the mill control room.

(a) Twenty-one (21) existing monitor wells will be sampled quarterly and the samples analyzed for field parameters, general chemistry and metals. The existing monitor wells are MW-1 through 6, MW-7A through 7C, MW-9A, MW-9B, MW-10 through 12, EW-1 through 4, and MW-A through C.

(b) Selected private wells will be sampled depending on access to the wells and the samples analyzed for field parameters, general chemistry and metals.

(c) Any new monitor wells and extraction wells will be sampled and samples analyzed for field parameters, general chemistry and metals.

(d) Static water levels will be measured in all monitor wells monthly and submitted quarterly.

(e) A potentiometric map including data from all monitor wells, piezometers and springs will be submitted annually.

(f) Six (6) monitor wells located at the lower and upper dump sumps will be sampled semi-annually and the samples analyzed for field pH, sulfate, molybdenum and total dissolved solids.

(g) Seven (7) springs along the Red River will be sampled quarterly and the samples analyzed for field

(1) The supply of tailings to the line will be shut off at the mill.

(2) The spill will be physically directed and contained away from water courses.

(3) Tailings in the lines will be released into the upper and/or lower emergency dump sumps.

(4) The broken line will be clamped and later repaired or replaced.

(5) The appropriate agencies will be notified, including the fish hatchery, acequia representative, forest service, NMED, and EPA.

(6) Any spilled tailings will be removed from the dump sumps or the land surface and transported to the tailings impoundment as soon as they can be moved.

(7) The six (6) dump sump monitor wells will be sampled and the samples analyzed for field pH, molybdenum, sulfate and total dissolved solids within 30 days following the spill.

(8) Spill and corrective action reports will be submitted to NMED and EPA for approval, as required by WQCC Regulation 1203.

d. Remediation Plan:

quantity that ground water or surface water standards may be violated, Molycorp will upon NMED's approval, upgrade its existing collection and extraction system or add additional seepage collection or extraction systems.

(4) In the event that closure of the tailings impoundment occurs before a revised closure plan is approved by NMED, Molycorp will implement an interim closure plan which consists of upgrading the spillway and diversion structure, covering the exposed tailings areas with nine inches of alluvium, revegetating the newly-covered areas, continuing the ground water remediation system for thirty (30) years, and performing maintenance and monitoring for the fifteen (15) years.

2. ADDITIONAL CONDITIONS FOR PERMIT APPROVAL:

a. Molycorp shall direct all discharges to the tailings impoundment through the mill (i.e. Sump 5000).

b. Molycorp shall not discharge seepage from the mill/mine area to the tailings impoundment prior to obtaining approval by NMED through an abatement plan, settlement agreement, administrative order on consent, or other enforceable regulatory mechanism.

f. Molycorp shall sample the tailings quarterly at the pipeline discharge and analyze them for total metals, paste pH and shall conduct static and acid/base accounting tests. The results of the tests shall be included in the required quarterly monitoring reports.

g. Molycorp shall include in the corrective action report for any spill, mitigative measures to prevent future spills. Failure of Molycorp to submit approvable corrective action reports may result in the issuance of a Compliance Order which includes the assessment of penalties.

h. Molycorp shall have the two required new monitor wells and the seepage extraction system, including all pumping and delivery systems, installed and operating by September 30, 1997.

i. Molycorp shall maintain an NMED approved interim financial assurance instrument in the amount of \$4.24 million dollars. Molycorp shall not cancel or substitute the NMED approved interim financial assurance without NMED approval of alternate financial assurance. In the event that the NMED approved interim financial assurance is canceled by the issuing institution, Molycorp shall provide written notice and cease discharge as approved under the extension letter dated October 1, 1996. The

facility shall be submitted to NMED for approval no later than

May 1, 1998.

(a) Stage Two Investigation: December 1,

1996; (2) The proposed financial assurance mechanism

or a combination of mechanisms shall be in an amount sufficient to

(b) Report on Stage Two Investigation: cover the costs included in subparagraph a above. The proposed July 1, 1997;

financial assurance mechanism must be submitted for approval by the

(c) Modeling and Cover Evaluation: Secretary with the revised closure plan cost estimate. The

November 1, 1997; and decision of the Secretary may be appealed in accordance with

(d) Request for Modification, Revised Section 3112.A of the WQCC Regulations.

Closure Plan, (3) Adjusted Cost Estimate and Adjusted Financial

Assurance Proposal. May 1, 1998. Once in place, the

financial assurance mechanism must remain in effect throughout the submit an

term of DP-933 until released by the Secretary. The financial

assurance shall remain in place during lapses in discharge plan

coverage including late discharge plan renewal or temporary

shutdown of the MolyCorp facility. issuance of a Compliance Order which includes the assessment of

penalties. However, the deadlines specified above may be extended

(4) If the financial assurance proposes a by written mutual consent of NMED and MolyCorp, if NMED's review of payee or beneficiary, NMED must be named as payee or beneficiary.

documents delays subsequent tasks.

(5) The financial assurance must include a

1. MolyCorp shall submit a revised financial method for adjustments due to inflation, new technologies, or NMED

assurance plan to NMED by May 1, 1998 which is subject to approval

approved revisions to the closure plan based on continued

investigations. by the Secretary. The approved revised financial assurance plan

shall be incorporated into DP-933 and shall address:

(1) A cost estimate for tasks included in and

associated with the revised closure plan for the MolyCorp tailings

m. Molycorp shall amend its spill prevention and contingency plan as follows:

(1) In the event that ground water standards are exceeded in a monitor well downgradient from the upper dump sump, Molycorp shall notify NMED and collect a confirmation sample within forty-eight (48) hours of receipt of the analyses. If the confirmation sample confirms that standards are exceeded, Molycorp shall submit a corrective action plan in accordance with 20 NMAC 6.2.1203 for the abatement of ground water contamination. The corrective action plan shall include a plan to remediate contaminated ground water and shall propose a liner for NMED approval.

(2) No later than sixty (60) days after the discharge plan is approved, Molycorp shall redesign the launders required under the spill prevention plan and submit for NMED's approval engineering design and criteria demonstrating that the launders or other engineered systems are designed and will be constructed to prevent tailings from reaching ground water and/or surface water in the event of a tailings spill. Molycorp shall install the launders or other approved engineered systems within sixty (60) days after NMED approval, or at such other time that the parties agree.

3. GENERAL PERMIT REQUIREMENTS:

a. Record Keeping:

(1) Molycorp shall maintain at the facility, a written record of ground water and wastewater quality analyses. The following information shall be recorded and shall be made available to NMED upon request:

(a) The dates, exact place and times of sampling or field measurements.

(b) The name and job title of the individuals who performed the sampling or measurements.

(c) The dates the analyses were performed.

(d) The name and job title of the individuals who performed the analyses.

(e) The analytical techniques or methods used.

(f) The results of such analyses.

(g) The results of any split sampling, spikes or repeat sampling.

(2) Molycorp shall maintain a written record of any spills, seeps, and/or leaks of effluent, leachate and/or process fluids not authorized by the discharge plan.

(d) Sample or monitor, at reasonable times for the purpose of assuring discharge plan compliance or as otherwise authorized by the New Mexico Water Quality Act, any effluent at any location before or after discharge.

c. Duty to Provide Information: In accordance with NMSA 1978, § 74-6-9(B) (Repl. Pamp. 1992) and 20 NMAC 6.2.3107.D, Molycorp shall furnish to NMED, within a reasonable time, any relevant information which NMED may request to determine whether cause exists for modifying, terminating and/or renewing this discharge plan or to determine compliance with this plan. The discharger shall furnish to NMED, upon request, copies of records required to be kept by this discharge plan.

d. Spills, Leaks and Other Unauthorized Discharges: This approval authorizes only those discharges specified in the discharge plan. Any unauthorized discharges violate 20 NMAC 6.2.3104, and must be reported to NMED and remediated as required by 20NMAC 6.2.1203. This requirement applies to all seeps, spills, and/or leaks discovered from the Molycorp tailings disposal system including the mill, pipelines, and tailings impoundment.

e. Retention of Records: Molycorp shall retain records of all monitoring information, including all calibration

g. Modifications and/or Amendments: Molycorp shall notify NMED, pursuant to 20 NMAC 6.2.3107.C, of any modifications or additions to the Molycorp tailings disposal system, including any increase in wastewater flow rate or wastewater storage and disposal management changes to the system as approved under this discharge plan. The discharger shall obtain NMED's approval, as a discharge plan modification, prior to any increase in the quantity or concentration of constituents in the leachate above those approved in this plan.

h. Other Requirements:

(1) Approval of the Discharge Plan does not relieve Molycorp of liability should its operation result in actual pollution of surface or ground water which may be actionable under other laws and/or regulations.

(2) Pursuant to 20 NMAC 6.2.3111, prior to any transfer of ownership, Molycorp shall provide the transferee a copy of the discharge plan, including a copy of this approval letter and shall document such to NMED.

(3) Pursuant to 20 NMAC 6.2.3109.G.4, discharge plan approval is for a period of five (5) years. Approvals will expire five (5) years from the date the approval is

signed, and Molycorp must submit an application for renewal at least one-hundred and eighty (180) days before that date.

A handwritten signature in black ink, appearing to read 'Mark E. Weidler', written over a horizontal line.

MARK E. WEIDLER
Secretary of Environment